

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**January 5, 1999**

## DIVISION ONE

B120909 People (Not for Publication)  
v.  
York

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

B125652 Martha S. (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Dept of Children & Family Services, r.p.i.)

We deny the writ petition.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.  
Masterson, J.

B122081 People (Not for Publication)  
v.  
Velasquez

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

### January 5, 1999-Continued

## DIVISION ONE (Continued)

B113119 Power House Ford Engines, Inc., et al. (Not for Publication)  
v.  
Geometric Results, Inc.

We affirm the judgment. GRI is entitled to its costs on appeal.

Ortega, Acting P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

B115195      The People  
v.  
Khrone

Good cause appearing, it is so ordered that the remittitur issued on September 17, 1998, is recalled & opinion filed July 10, 1998 is vacated. The Clerk is directed to refile the opinion in People v. Khroné this date.

B115195      People                          (Not for Publication)  
v.  
**Khrone**

We modify the judgment to strike the Penal Code section 667.5, subdivision (b) enhancement. We remand for issuance of a corrected abstract of judgment reflecting our modification, and direct the trial court to forward the new abstract to the Department of Corrections. In all other respects, we affirm the judgment.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.  
Masterson, J.

DIVISION TWO

B117007      Thomason                              (Not for Publication)  
                 v.  
                 Jackson

The judgment is affirmed.

Fukuto, Acting P.J.

We concur:    Nott, J.  
                 Zebrowski, J.

B116639      Agnew    (Not for Publication)  
                 v.  
                 California State Board of Equalization

The judgment is affirmed.

Fukuto, J.

We concur:    Boren, P.J.  
                 Zebrowski, J.

B120462      Thompson    (Not for Publication)  
                 v.  
                 Harper, et al.

The judgment is reversed.

Fukuto, J.

We concur:    Boren, P.J.  
                 Nott, J.

## DIVISION TWO (Continued)

B115373 Trope (Not for Publication)  
v.  
Barab, Vaughan & Kline, et al.

The order of dismissal is reversed, and the cause is remanded for further proceedings in accordance with this decision. Plaintiff shall recover costs on appeal.

Fukuto, J.

We concur:   Boren, P.J.  
                      Nott, J.

B118509 People (Not for Publication)  
v.  
Newburn

The Court:

The judgment is reversed, and the matter is remanded for further proceedings consistent with the views expressed in this opinion.

Fukuto, Acting P.J., Zebrowski, J., Mallano, J. (Assigned)

B115631 People (Not for Publication)  
v.  
Olivarez-Zendejas

The Court:

The judgment (order granting probation) is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

January 5, 1999-Continued

## DIVISION TWO (Continued)

[illegible]

The Court:

The order continuing wardship is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

B120901 People (Not for Publication)  
v.  
Jackson

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Nott, J.

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

DIVISION THREE

B121934      Efraim  
                 v.  
                 Total Health Connection, et al.

Filed order granting petition for rehearing. Respondent Rafat Efraim is to file a response to appellant's petition for rehearing. Respondent shall also specifically advise the court what case law or statutory authority the trial court relied on to award attorney fees. The response is to be filed and personally served no later than noon on January 19, 1999.

DIVISION FOUR

B114533      Foothill Village Homeowners                      (Certified for Publication)  
                 v.  
                 Bishop  
                 First

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur:   Epstein, J.  
                 Hastings, J.

B120610      People    (Not for Publication)  
                 v.  
                 Victorian

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur:   Hastings, J.  
                 Curry, J.

## DIVISION FOUR (Continued)

[illegible]

The order revoking probation is affirmed. The judgment is modified to reflect a \$200 parole revocation fine and, as modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment to reflect such fine.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

[illegible]

The superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting imposition of a \$200 fine pursuant to Penal Code section 1202.45. In all other respects, the judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.  
Curry, J.

B124755      Ammy M.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied.

Hastings, J.

We concur: Epstein, Acting P.J.  
Curry, J.

DIVISION FIVE

Court convened at 9:00 A.M.

Present: Turner, P.J., Grignon, J., Armstrong, J., and J. Belcher, Deputy Clerk.

Each of the following:

B121880 People v. Ricardo Torres  
B118730 People v. Adrian Cop4rich  
B114721 People v. Jung et al  
B123051 People v. Angelo Mack  
B121971 People v. Ricky Ball  
B120251 People v. Melvin Hanson  
B115296 Lydia Cook et al v. City of Pomona

Argument waived, cause submitted.

B119526     Richard Neely  
                 v.  
                 Williams-Sonoma

Merits:

Argued by William D. Evans for appellant and by Mark T. Kobata for respondent. Cause submitted.

B122708     People  
                 v.  
                 Lois Ann King

Merits:

Argued by Walther L. Gordon, III for appellant and by Corey J. Robbins, deputy attorney general, for respondent. Cause submitted.

B120128     Lawrence I. Bernstein  
                 v.  
                 ABC International Traders, Inc.

Merits:

Argued by Stephen H. Marcus for appellant and by David Lee Moring for respondent. Cause submitted.



DIVISION FIVE (Continued)

B122205 Steven Faraci  
v.  
Andrew W. Geleris

Merits:

Argued by Robert H. Pourvali for appellant and by Mark B. Connely and Roxanna Huddleston for respondents. Cause submitted.

B117739 Marisa A. Antonini  
v.  
Mario E. Antonini

Merits:

Argued by James R. Eliaser for appellant and by S. David Rosenson for respondent. Cause submitted.

B116548 Kishore Kaul  
v.  
Frank Johnson et al.

Merits:

No appearances for either party. Cause submitted.

Each of the following:

B114450 People v. Jose Cortez et al.  
B119382 People v. Steven Morris  
B122670 People v. Jerry Essnault  
B124140 People v. Hector Larre  
B121703 People v. James Washington  
B119579 People v. Jose Zetino  
B117114 People v. Frank Senecal

Argument waived, cause submitted.

The Court recessed at 10:10 A.M.

DIVISION FIVE (Continued)

The Court reconvened at 1:00 p.m.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J., and J. Belcher, Deputy Clerk

B121218      Kirsten Fox  
                  v.  
                  The State of California

Merits:

Argued by Kenneth M. Stern for appellant and by Robert R. Orellana, deputy county counsel and Christopher C. Foley, deputy attorney general, for respondent. Cause submitted.

The court recessed at 1:20 p.m.

The Court reconvened at 1:25 p.m.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J., and J. Belcher, Deputy Clerk.

B115878      Talon Instruments  
                  v.  
                  John Fluke Mfg. Co. Inc.  
                  (Fluke Corporation, r.p.i.)

Merits:

Argued by Jon Eisenberg for appellant and by I. Donald Weissman and Scott L. Gilmore for respondents. Cause submitted.

B117820      DionisioTopacio  
                  v.  
                  Anna Hill

Merits:

Argued by Baird A. Brown for appellant and by Richard J. Reynolds for respondent. Cause submitted.

DIVISION FIVE (Continued)

B118053      Dubs, Incorporated  
v.  
Videotape Plus, Inc. et al.

Merits:  
Argued by Gerald P. Cunningham for appellant and by Ronald G. Rosenberg and David Robinson for respondents. Cause submitted.

B120394      First Federal Bank of California  
v.  
Seymour Goldstein

Merits:  
Argued by Thomas Daniel Hogue for appellant and by Michael D. Shore  
for respondent. Cause submitted.

Court adjourned.

B115799      John Richard Arius      (Not for Publication)  
v.  
James E. McNamara et al.

The demurrer to Arius's first amended complaint was properly sustained on the ground that it was uncertain or ambiguous as to the nature and timing of the last overt acts in order to determine when the statute of limitations began to run. The order sustaining the demurrer without leave to amend and the concomitant judgment of dismissal are reversed, as is the order of sanctions. Arius has 30 days from the date of this decision to file a second-amended complaint. Each party to bear his own costs on appeal.

Godoy Perez, J.

I concur: Turner, P.J.  
I dissent: Armstrong, J.(Opinion)

January 5, 1999-Continued

## DIVISION FIVE (Continued)

B105976      Ronald Stanman  
v.  
Alan J. Schultz et al.

Filed order denying petition for rehearing.

DIVISION SIX

103389-98 THE HONORABLE STEVEN J. STONE, Retired Presiding Justice, of the Court of Appeal, Second Appellate District, Division Six, is hereby assigned to assist the Court of Appeal, Second Appellate district, Division Six, as a justice thereof, on the following dates January 5, 1999 to March 31, 1999, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matter.

Dated: January 5, 1999

Ronald M. George  
Chief Justice of California and  
Chairperson of the Judicial Council

B119146      Cohn  
v.  
Colby

Filed order modifying opinion. (No change in the judgment)

## DIVISION SEVEN

B118156 People (Not for Publication)  
v.  
Juan Jimenez

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B118803      Judith L. Bernstein      (Not for Publication)  
v.  
David Bernstein

The trial court's orders are affirmed insofar as they require David to pay Judith 48.25% of disposable retired pay, retroactive to June 1996. They are reversed insofar as they require David to pay any sum based on events prior to filing of the OSC, and insofar as they require David to reimburse Judith for taxes, either retroactively or prospectively. The case is remanded to the trial court for recalculation-consistent with this opinion-of retroactive sums due Judith. Respondent shall recover her costs on appeal.

Neal, J.

We concur:    Lillie, P.J.  
                     Woods, J.

B113032      Jose Raymundo Vallejo      (Not for Publication)  
v.  
Angie Codina, et al.

The default judgment and order striking defendants' answer are reversed. Appellants are entitled to costs on appeal.

Lillie, P.J.

I concur:      Woods, J.  
I dissent:      Neal, J.(Opinion)

B113830      People  
v.  
Donte M.

Filed order denying petition for rehearing.